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Response to Office Action of 24 May 2004
Atty Docket 6523-54

Remarks

Claims 1-23 are in the case. Of the claims, 1, 10, 15, and 16 are herein amended, and 22 and 23 are new.

I. Legal Standards Of Obviousness Under 35 U.S.C. § 103(a)

The Statutory standard for the ultimate determination of obviousness provides that a claimed invention is unpatentable if the differences between it and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art . 35 U.S.C. § 103 (1994); *Graham v. John Deere* 383 US 1, 13.

The initial burden is on the examiner to provide some suggestion of the desirability of doing what the inventor has done. "To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references." *Ex parte Clapp*, 227 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985).

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990) (emphasis added).

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"There are three possible sources for a motivation to combine references: the nature of the problem to be solved, the teachings of the prior art, and the knowledge of persons of ordinary skill in the art." *In re Rouffet*, 149 F.3d 1350, 1357, 47 U.S.P.Q.2d 1453, 1457-58 (Fed. Cir. 1998). The showing of a motivation to combine or modify prior art must be clear and particular, and broad conclusory statements about the teachings of one or more references, standing alone, are not "evidence." *In re Dembiczaik*, 175 F.3d 994, 1000, 50 U.S.P.Q.2d 1614, 1617 (Fed. Cir. 1999).

Second, there must be a reasonable expectation of success. Whether an art is predictable or whether the proposed modification or combination of the prior art has a reasonable expectation of success is determined at the time the invention was made. *Ex parte Erlich*, 3 U.S.P.Q.2d 1011 (Bd. Pat. App. & Inter. 1986).

Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. "All words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385, 165 U.S.P.Q. 494, 496 (CCPA 1970). The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991).

Rejection of Claims 1-14, 17, and 21

The Examiner has rejected 10, 14, 17, and 21 in part based on U.S. Patent No. 6,719,481 to Hoffman. As applied (although not stated), the applicant assumes that Hoffman '481 is being asserted as 102(e)/103 prior art at the time of the office action, since Hoffman's effective filing date is approximately four months before the filing date of the instant application.

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The applicant hereby submits a 37 C.F.R. 1.131 Declaration of co-inventors Bernard F. Garceau and Jason D. Collins, which establishes conception and reduction-to-practice of the instant invention at least as early as October 24, 2001, one day before the filing date of the Hoffman '481 patent. As such, the applicant asserts that Hoffman '481 does not qualify as prior art. Since the rejection of claims 10, 14, 17, and 21 were based on a combination of references under 35 U.S.C. 103(a), the removal of one of the references obviates the obviousness rejection of these claims. MPEP 715.02 (I). As such, allowance of claims 10, 14, 17, and 21 is earnestly requested for this additional reason.

Additionally, claim 1 has been amended to require a third side the is at least partially bilaminar. As such, claims 1-9 and 11-13 also require a bilaminar third side, and are therefore respectfully asserted to be allowable as well.

Rejection of Claims 15-21; new claim 22

The Examiner has rejected claims 15 and 17-21 based on UK Patent Application 2,044,193 to Hiss in view of Morris and Kristiansen. The applicant hereby incorporates the remarks and argument with regard to claims 1-13 as to why Morris does not teach all of the elements of the bracket, and hereinafter responds further with regard to claims 15 -21, and new claim 22.

Each of claims 15-21 and new claim 22 require a bolt-together trailer frame including longitudinal members attached to cross members by bolts, and A-frame members each attached to each other by bolts and attached to longitudinal member by bolts. As understood, Hiss only teaches two cross members that are bolted to longitudinal members via arms 7, 8 and 7a, 8a.

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Hiss does not teach an entire trailer frame that is bolted together, including A-frame members that are bolted together and to the longitudinal members. Hiss states that “[t]he chassis has a draw bar 5, the construction of which is not of relevance to the invention.” (Page 1 of Specification, lines 107-109).

Given the advantages of a bolt-together trailer frame, including the ability to transport the trailer unassembled, if Hiss knew how to construct a bolt-together trailer frame, he would have disclosed it as such. However, the intended purpose of the Hiss trailer frame is merely to facilitate the trailer frame being adjustable longitudinally. As such, the applicant respectfully asserts that Hiss does not teach a bolt-together trailer frame, including A-frame members being bolted to each other and bolted to the longitudinal members. As such, the applicant requests allowance of claims 15-21 and new claim 22 for at least this reason.

Furthermore, the applicant asserts that there is no motivation to combine Hiss with Morris and Kristiansen, nor is a reasonable expectation of success in doing so. Hiss discloses a trailer frame, which is classified in international class B62D 21/14. Morris discloses a resilient bracket for use with furniture, in international class F16B 12/46. Kristiansen discloses a corner structure for use with shelves, cabinets, and boxes, in international class F16B 12/00. One skilled in the art would not solve the problems associated with loads contained in a bolt-together trailer frame by combining the teachings of the trailer frame art with the teachings of connectors for furniture, shelves, cabinets, or boxes. For example, Morris discloses that the bracket “is preferably formed of a ...resilient plastic material for...providing flexibility.” (Col. 2, lines 12-16). Therefore, applicant requests allowance of claims 15-21 and new claim 22 for this additional reason.

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Summary

1. Based on the 131 Declaration, Hoffman does not qualify as a prior art reference.

Claims 1-14, 17, 21, and 22 are respectfully asserted to be allowable for at least this reason.

2. Hiss does not disclose, teach, or suggest a bolt-together trailer frame. Claims 15-23 are respectfully asserted to be allowable for at least this reason, because the prior art cited does not teach all of the claim limitations.

3. There is no motivation to combine Morris or Kristiansen with Hiss, and no likelihood of success in doing so, because Morris and Kristiansen are nonanalogous to Hiss, the problems associated with trailer frames are vastly different, including loads experiences in furniture versus trailer frames. One skilled in the trailer frame art would therefore not look to brackets from furniture and the like to solve problems associated with trailer frames.

Based on the foregoing, the applicant respectfully requests a timely notice of allowance be issued in the case.

Respectfully submitted,



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